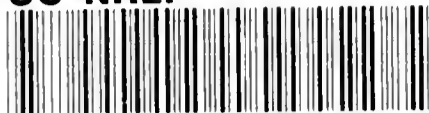
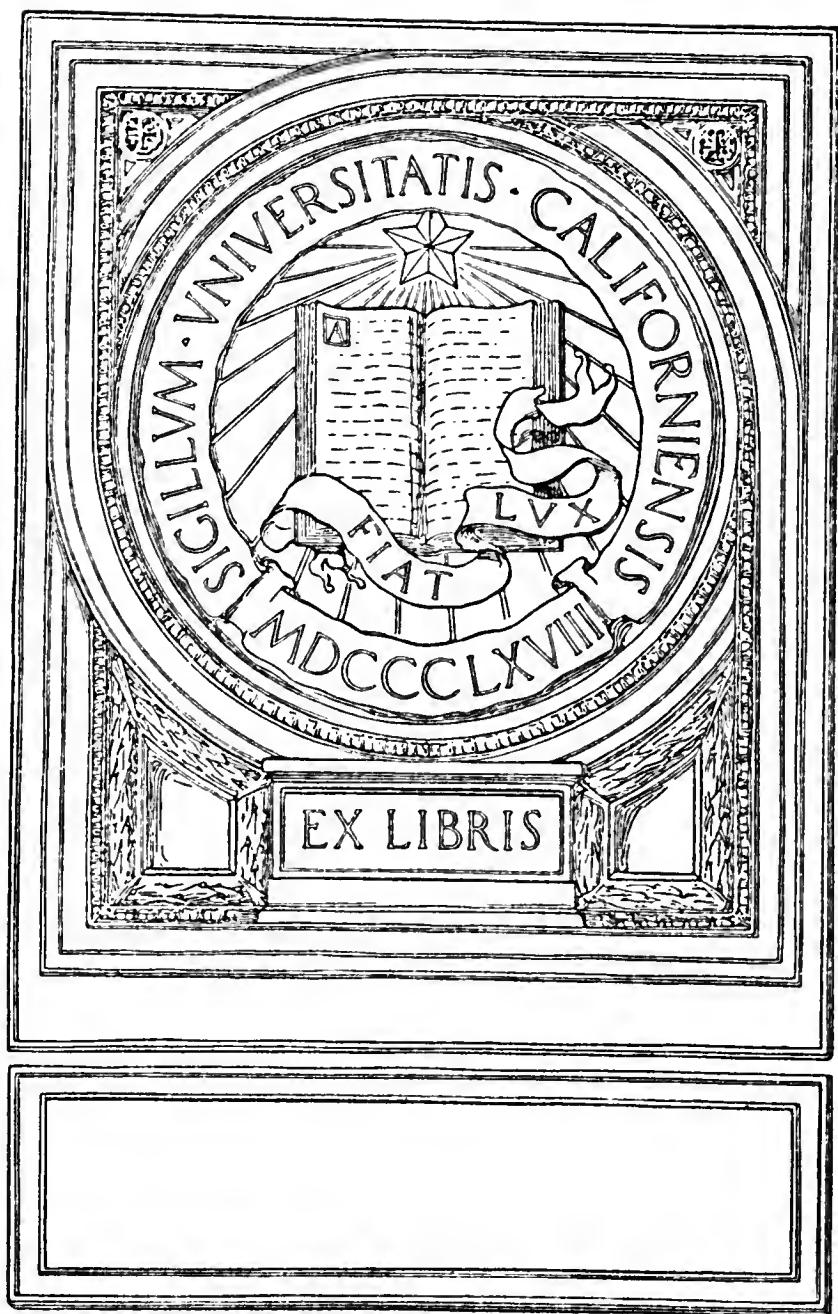


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PRELIMINARY REPORT OF THE COMMITTEE AP-  
POINTED BY THE NATIONAL TAX ASSOCIATION  
TO PREPARE A PLAN OF A MODEL SYSTEM  
OF STATE AND LOCAL TAXATION.

Submitted to the Twelfth Annual Conference held under the auspices of  
the National Tax Association, at St. Louis, November 12-15, 1918.

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I. INTRODUCTION

SECTION 1. At the conference held at Atlanta in November, 1917, under the auspices of the National Tax Association, the committee appointed by the Association to prepare a plan for a model system of state and local taxation submitted its first report. The committee was able to announce that it had reached a general agreement concerning the principles upon which a uniform system of state and local taxation should be based, and expressed the opinion that, if further conferences of its members could be arranged, it would be possible to reach an agreement concerning the details of the proposed system. Following this report, the executive committee of the Tax Association authorized the holding of such a meeting, and accordingly the committee upon a model tax system met at

Pass Christian, Mississippi, during the week extending from January 21 to January 27, 1918.

There were present at the meeting Messrs. Bullock, Galloway, Howe, Link, Lord, Tarbet, and Page, and also, by special invitation of the committee, Mr. A. E. Holcomb, the Treasurer of the National Tax Association. Three members of the committee, Messrs. Adams, Mills, and Rearick, were unable to attend the meeting; Messrs. Adams and Rearick because they were prevented by the pressure of other duties, and Captain Mills because he had gone to France. Messrs. Adams and Rearick, however, were fully informed about the progress of the committee's deliberations, and have lent their valuable criticism and counsel, so that the report now submitted has received the careful consideration of all the members of the committee except Captain Mills.

Following the meeting at Pass Christian, the chairman of the committee prepared a tentative draft of a report based upon the votes taken by the committee, and this draft was submitted in July to all of the members of the committee except Captain Mills. After securing such criticisms and suggestions as the other members had to offer concerning the tentative draft, the chairman was able to prepare a report which is now submitted, with the approval of all the members of the committee except Captain Mills, for the consideration of the Twelfth Annual Conference of the National Tax Association.

SECTION 2. This report has been printed in advance of the holding of the Conference, for the information of members of the Tax Association and delegates to the Conference. It is submitted as a preliminary rather than a final report, and is offered with a view to furnishing the Conference a basis for discussion.

The committee realizes that a general agreement upon any plan for a model system of taxation can be reached, if at all, only after mature consideration by all interested in the work of the National Tax Association, and believes that no attempt should be made to reach a decision this year. We are, therefore, submitting this report for the considerate judgment of the Conference in the hope and expectation of deriving great assistance from such discussion and criticism as it will there

receive. If the conclusions we have reached command sufficient approval, it will then be possible for this committee, or some other appointed for the purpose, to prepare in the following year what may be considered a final report. This is a matter in which haste is both unnecessary and undesirable, and one in which success can result only from a general consensus of opinion reached after the fullest and maturest deliberation.

SECTION 3. In further explanation, we desire to point out that the present report deals only with the general principles upon which a model system of taxation may be constructed and with the general framework of such a system. Even if all necessary details had been fully worked out, it would have been undesirable to present them now, since they would inevitably have tended, to some extent, to divert attention from the fundamentals of the plan. But all the details have not been worked out, and could not be within the time the committee has had at its disposal. We have found that, even if the plan in its general outlines is approved, there will remain numerous matters that will require further consideration, some of them by committees having technical qualifications which the members of the present committee do not possess. We have, therefore, not attempted to deal with such subjects, and have recommended to the executive committee of the National Tax Association the appointment of several special committees to report upon these questions. A model system of state and local taxation cannot be devised in a single year, and we are, therefore, attempting in the present report to provide only a foundation upon which future work can be based. We believe, however, that, if such a foundation can be laid, the work that remains will be greatly facilitated and the completion of the structure need not be long deferred.

## II. THE PRINCIPLES UPON WHICH A MODEL SYSTEM OF STATE AND LOCAL TAXATION SHOULD BE BASED

SECTION 4. Whatever other purposes taxation may properly have, its fundamental purpose is to provide revenue which, it will be agreed, ought to be raised as equally, certainly, conveniently, and economically as possible. Until this

fundamental purpose is achieved, and the American states are today very far from accomplishing it, we shall hardly find it worth while to consider what other purposes taxation may properly have. Therefore, the committee has confined itself to the one problem of immediate practical importance, which is that of devising methods by which the large revenues now required by American state and local governments may be raised with the greatest practicable degree of equality, certainty, convenience, and economy.

SECTION 5. Any proposed system of state and local taxation must, at the very outset, recognize certain existing conditions and conform to certain practical requirements before it can be seriously considered as a basis for legislation. These conditions and requirements the committee has had constantly in mind. They may be stated briefly as follows:

A. The proposed system must yield the large revenues which our state and local governments require at the present time.

B. It must be practicable from an administrative standpoint, that is, it must be capable of being administered by such means and agencies as the states have at their command and can reasonably be expected to provide.

C. It must be adapted to a country with a federal form of government, and to this end must reconcile the diverse claims of our several states, which now conflict at many points thereby producing unjust multiple taxation and disregard of interstate comity.

D. It must respect existing constitutional limitations, federal and state, or else point to practicable methods of constitutional amendment.

E. It must represent as nearly as possible a general consensus of opinion, and to this end must give careful consideration to the most influential body of opinion developed and formulated by the National Tax Association.

F. It must not propose measures wholly foreign to American experience and contrary to the ideas of the American people.

SECTION 6. Study of the tax laws of the American states reveals the fact that there are three fundamental principles which have been more or less clearly recognized by our law-

makers, and have very largely determined the provisions of the enactments now standing on the statute books.

The first is the principle that every person having taxable ability should pay some sort of a direct personal tax to the government under which he is domiciled and from which he receives the personal benefits that government confers. This is most clearly exemplified by the laws providing for the taxation of securities and credits which represent in large part interests in tangible property and business located in other jurisdictions. In spite of the fact that such laws may lead to unjust double taxation, most of the states have insisted upon taxing evidences of ownership, upon the theory that the owners are within their jurisdiction and receive from them certain personal benefits which justify the imposition of a tax. State income tax laws usually proceed upon a similar principle; and the same may be said of the poll tax, which is still found in many of the commonwealths.

The second principle is that tangible property, by whomsoever owned, should be taxed by the jurisdiction in which it is located, because it there receives protection and other governmental benefits and services. That the owner is frequently a non-resident is not considered a material fact, because the property must be protected where it is located, and, if employed in trade, comes in competition with similar property of residents. This principle, furthermore, has received the sanction of the Supreme Court of the United States in cases which have developed the rule that tangible property is taxable in the jurisdiction within which it is located, and not elsewhere.<sup>1</sup>

The third principle, somewhat less clearly and generally exemplified by our tax laws but discernible none the less, is that business carried on for profit in any locality should be taxed for the benefits it receives. If the owners of the business are residents of the state, this principle need not be appealed to, since the ordinary methods of taxation may be considered to provide for such a case. If a considerable amount

<sup>1</sup> See, for instance, *Union Refrigerator Transit Co. v. Kentucky*, 199 U. S. 194.

of real estate and other tangible property is employed in a business conducted for the account of non-residents, again no appeal may be made to this principle, since here too the ordinary methods of taxation may be considered adequate. But if the owners are non-residents, and the business, though very profitable, employs little or no property subject to taxation in the locality, the states, to an increasing degree, demand that some method shall be devised for reaching such business enterprises. This tendency is exemplified in the taxation of corporate franchises in California and some other states, in the taxes imposed on incomes in Wisconsin and some other commonwealths, and in such laws as that enacted by Louisiana taxing non-residents upon credits arising from business done within that state. It finds, further, an even more general expression in the numerous business taxes, usually in the form of licenses, which are found in many states, particularly in the South.

Whatever one may think of any or all of these principles, the fact remains that they undoubtedly represent hard facts which any new system of taxation must take into account. That they are not in many cases logically and consistently applied, admits of no doubt; that they sometimes lead to confusion and involve unjust double taxation and disregard of interstate comity, cannot be questioned. But the committee believes that there is merit in each of these principles, even though they have been frequently misapplied; and is satisfied that the laws in which the principles are embodied will not be changed except to give place to statutes that provide fairer and more logical methods of carrying the principles into effect.

The problems we here encounter have not arisen by chance, or as a result of mere ignorance and inexperience. They result from claims which the states assert in pursuance of what they consider their legitimate interests in the vitally important matter of taxation. At this point, indeed, we get to the very heart of the most difficult problem encountered in devising a logical plan of taxation in a country having a federal form of government, that is, the adjustment of the conflicting claims of independent taxing authorities. The committee,

therefore, has determined to make this problem its chief point of attack upon the entire subject referred to its consideration.

SECTION 7. Mature reflection has brought the committee to the conclusion that the conflicts of jurisdiction and other evils resulting from tax laws based upon the foregoing principles have not been due to inherent defects of the principles themselves, but have arisen from the illogical and inconsistent methods by which the principles have frequently been applied. That every person should pay a direct tax to the government under which he lives, appears to us perfectly reasonable and just; that tangible property should be taxed where located, is both reasonable and in every way expedient; and that business may properly be taxed in any jurisdiction where it is carried on, seems to admit of no serious doubt. Moreover, we find in the tax laws of other countries many examples of explicit recognition of all of these principles; so that we must conclude that both reason and experience confirm the underlying theories upon which the American states have based these provisions of their tax laws.

The trouble has been that the states have not applied logically and consistently the principles upon which they have undertaken to act. Under the system of the general property tax, it was practically impossible for them to do so. They naturally and properly taxed tangible property within their jurisdictions on the theory that such property ought to be taxed at its situs, and then they sought to tax intangible property representing interests in tangible property already taxed elsewhere, on the theory that such intangible property ought to be taxed at the domicile of the owner. By so doing, they imposed but one tax on property owned by persons residing in the state where the property was situated, and imposed two taxes upon a great deal of property the interests of which were represented by securities owned by persons whose domiciles were not in the state where the tangible property had its situs.<sup>2</sup>

<sup>2</sup> Double taxation sometimes occurs, of course, when the persons having an interest in the property live in the state where it is situated, as in the case of mortgages and corporation bonds. No attempt is made at this point to consider all possible cases of unjust double taxation, although the plan we propose provides a remedy for them.

In each case the underlying theory was sound, but the method of application resulted in unjust double taxation of interstate investments. The only solution under the general property tax would be an agreement between states by which one tax would be levied, presumably at the situs of the property, and the proceeds thereof would be divided in equitable proportions between the state where the property had its situs and that in which the owner was domiciled. But such an agreement, besides presenting administrative difficulties, would have been practically impossible to secure; and therefore unjust double taxation has been tolerated because the only practicable alternative seemed to be the surrender of a claim which was in itself just.

In the attempts of the states to make property or income taxes apply to all kinds of business carried on within their jurisdiction, similar conditions obtain. Assuming that all such business ought to be taxed, it is nevertheless true that it ought not to be taxed by a method which imposes two taxes upon some enterprises and only one tax upon others. The states of domicile naturally decline to forego all their claims with respect to the property or income concerned, because they hold that the owners or recipients have an obligation to the governments under which they live; the states where the business is carried on with equal propriety assert their right to tax, and the result is unjust double taxation. The underlying theories of taxation are correct in both cases, but the method of application is seriously defective.

SECTION 8. It is the opinion of the committee that the only method of reconciling these conflicting claims of the states is the adoption of a diversified system of taxation which recognizes fully the three principles above mentioned and provides a method by which, without formal agreement among the states, these principles may be logically and consistently applied. We propose, therefore, a personal tax which shall be levied consistently upon the principle of taxing every one at his place of domicile for the support of the government under which he lives; a property tax upon tangible property, levied objectively where such property has its situs and without regard to ownership or personal conditions; and finally, for

such states as desire to tax business, a business tax which shall be levied upon all business carried on within the jurisdiction of the authority levying such tax. By this method we believe it is possible to satisfy every legitimate claim of every state without imposing unequal and unjust double taxation upon any class of income, property, or business. We propose, in other words, nothing more than to ask the states to apply logically and consistently the principles that today underlie the greater part of their tax laws. By so doing we are recommending action along the line of least resistance, and for our proposals we find many precedents in the legislation of this and of other countries.

SECTION 9. Such a diversified system of taxation as we recommend will not only reconcile the conflicting claims of the states, it will also facilitate greatly a proper classification of the objects upon which taxation falls. One of the greatest evils of the general property tax has been that it has been levied upon different classes of property without regard to differences in the nature and taxable ability of such classes, or to the different degrees in which they benefit from public expenditure. This is a commonplace to all students of the subject, and is sufficiently set forth in the publications of the National Tax Association. The Association has long been committed to the proper classification of the subjects of taxation, and the conferences held under its auspices have repeatedly endorsed the principle of classification. So far, indeed, as the principle is concerned, we believe that a general agreement upon this point may be taken for granted, and that the only profitable topic for discussion is, and for some time has been, that of the proper method of classification. We find it unnecessary, therefore, to dwell further upon the need of classifying the subjects of taxation.

It is important, however, to point out that the plan we recommend goes far toward securing a proper classification of the subjects of taxation. The personal income tax will reach every kind of taxable income, and will make it unnecessary to attempt to levy any tax upon intangible property, thus eliminating the most serious difficulty connected with property taxation. The property tax will be applicable to every form

of tangible property that any state wishes to tax; and admits of being levied upon such property uniformly, or of being levied under a proper classification such as we shall hereafter suggest. And finally, the business tax, since it will be levied purely as a business tax and not as a part of a personal income tax or a property tax, can be readily adjusted in such a manner as the needs of business and the situation of every state may require.

SECTION 10. The plan which the committee recommends is, therefore, fundamentally a plan intended to reconcile the conflicting interests of the states, and to facilitate the proper classification of the subjects of taxation. It involves nothing new in principle, and merely requires the logical application of principles already recognized by the tax laws of many states. It will bring about a full and adequate taxation of income, property, and business, and will produce as much revenue as the state and local governments can expect to derive from these sources. Finally, it encounters no insuperable constitutional difficulties, and certainly will require no more changes in state constitutions than any other plan that would be adequate to the needs of the case.

### III. THE PROPOSED PERSONAL INCOME TAX

SECTION 11. The first decision reached by the committee was that in the proposed model system of state and local taxation there should be a personal tax levied with the exclusive view of carrying out the principle that every person having taxable ability should pay a direct tax to the government under which he is domiciled. There appeared to be four forms of personal taxation which have been employed for this purpose.

The first of these is the poll tax. It is evident, however, from the nature of the case that this tax would be utterly inadequate to accomplish the object in view, even if levied at graduated rates, as has sometimes been done in other countries. It would be so unequal and so far inferior to the other forms of personal taxation that it cannot be deemed worthy of serious consideration. Whether, as a supplement to an adequate system of personal taxation, it might be desirable to

retain the poll tax as a means of insuring some contribution from people owning no property and having small incomes, the committee preferred not to consider in this report. It has been our desire to confine ourselves to main issues, and not to undertake to solve every minor problem of taxation. We, therefore, say nothing about the poll tax, except that it is inadequate for the purpose that we have in view, and cannot be recommended as an important element in any system of state and local taxation.

The second method of imposing the personal tax would be to levy a tax upon every man's net fortune, that is, upon the total of his assets in excess of his liabilities, without exemption of any kind of asset or exclusion of any liability. This would mean a general property tax, but a net property tax such as is found in some countries in Europe. It would be a tax levied not upon property as such, but upon net fortune as a measure of the citizen's personal liability to contribute to the government under which he is domiciled. It would be entirely distinct from any tax that might be levied objectively upon property, as property, at the place of its situs, and would have to be levied exclusively upon the property owner at his place of domicile. It would necessarily be levied at a moderate rate, perhaps \$3 per \$1000, which would correspond approximately to a six per cent income tax upon investments yielding five per cent. Although precedents may be found in other countries for such a personal tax levied upon net fortunes, the committee has concluded that it is not to be recommended for adoption in the United States. Such a tax would raise the difficult constitutional question of the right of a state to levy a tax even upon the *net* fortune of a citizen if that fortune included tangible property located in another commonwealth. It is, furthermore, foreign to American experience, and would certainly not lead us along the line of least resistance. Since the coming of the federal income tax, it is obvious that it is easier for the states, and more convenient for the taxpayers, to adopt income rather than net fortune as the measure of the obligation of the citizen to contribute to the government under which he lives.

The third method of personal taxation is what may be

called a presumptive income tax, that is, a tax levied upon persons according to certain external indicia which are taken to be satisfactory measures of taxable ability. House rent is the index commonly used in such presumptive income taxes, and a tax on rentals has been proposed in times past by special commissions in Massachusetts and New York. Such a tax would be comparatively easy to administer, and would raise no difficult constitutional questions. It would undoubtedly be better than an income tax or a tax on net fortunes if those taxes were badly administered. But the amount that a citizen pays for house rent is after all such a very imperfect and inadequate indication of his income or fortune that the committee is unwilling to recommend it to any state in which there is any reasonable expectation that conditions are, or may presently become, favorable for the introduction of a better form of personal tax. It appears that in France, where the tax on rentals has been in continuous operation since the Revolution, there is so little correspondence between house rents and taxable ability that in the greater part of the communes the taxing officials disregard to a greater or less extent the letter of the law, and assess people according to what they appear able to pay. The committee finds, therefore, that the tax on rentals is not to be recommended except, perhaps, as a last resort in states where administrative and other conditions are unfavorable to the introduction of any better form of personal taxation.

There remains a fourth form of personal taxation, the personal income tax. By this is meant a tax levied upon persons with respect to their incomes which are taxed not objectively as incomes but as elements determining the taxable ability of the persons who receive them. This tax is better fitted than any other to carry out the principle that every person having taxable ability shall make a reasonable contribution to the support of the government under which he lives. It is as fair in principle as any tax can be; under proper conditions, it can be well administered by an American state, as Wisconsin and Massachusetts have proved; it is a form of taxation which meets with popular favor at the present time, and therefore seems to offer the line of least resistance. The committee,

therefore, is of the opinion that a personal income tax is the best method of enforcing the personal obligation of the citizen for the support of the government under which he lives, and recommends it as a constituent part of a model system of state and local taxation.

SECTION 12. While it is impossible in this report to describe the proposed taxes in every detail, it is essential that the committee should explain at least in broad outlines the manner in which these taxes should be levied. In so doing it will be necessary to refer constantly to the general principles previously stated, and to adjust the details of each tax in such a manner as to enable it to carry into effect logically and consistently the principle upon which it is based.

Since the purpose of the personal income tax is to enforce the obligation of every citizen to the government under which he is domiciled, it is obvious that this tax must be levied only upon persons and in the states where they are domiciled. It is contrary to the theory of the tax that it should apply to the income from any business as such, or apply to the income of any property as such. The tax should be levied upon persons in respect of their entire net incomes, and should be collected only from persons and at places where they are domiciled. It should not be collected from business concerns, either incorporated or unincorporated, since such action would defeat the very purpose of the tax.

At first thought this proposal will doubtless seem objectionable to many, who will ask why a state should not tax all incomes derived from business or property located within its jurisdiction, irrespective of whether the recipients are residents or non-residents. And if the personal income tax were the only one proposed, the objection would be well grounded. The committee, however, is under the necessity of reconciling the conflicting claims of the states, and of doing so in a manner that will avoid unjust double and triple taxation of interstate business and investments. We, therefore, propose as the only practicable remedy a system which comprises three taxes, each of which is designed to satisfy fully and fairly the legitimate claims of our several states. We are elsewhere providing methods by which property will be taxed where located

and business will be taxed where it is carried on. At this point, we are dealing exclusively with a personal tax designed to enforce the right of our states to tax all persons domiciled within their jurisdictions; and we are merely insisting that, in enforcing this claim, the states shall act consistently, and shall confine personal taxation to persons and attempt to levy it only at the place of domicile. If the personal income tax is levied in any other way, it will simply reproduce and perpetuate the old evil of unjust double taxation of interstate property and interstate business.

2 The second detailed recommendation we have to make is that the personal income tax shall be levied in respect of the citizen's entire income from all sources. Under existing constitutional limitations, of course, interest upon the bonds of the United States and the salaries of federal officials cannot be taxed by the states, but we recommend that all other sources of income be subject to the income tax without exception or qualification. We are aware that, under the unreasonable and unworkable requirements of the general property tax, it has appeared desirable in times past to exempt state and local bonds from taxation, to exempt real estate mortgages, and to grant various other exemptions. All such exemptions are inconsistent with the theory of the tax we here propose, and should be discontinued as rapidly as the circumstances of each case permit. Against the policy which led to these exemptions under the general property tax we here offer no criticism. But we are now dealing with a tax which is designed to be a part of a new system of taxation, and it is evident that none of the considerations which led to the exemptions created under the general property tax are applicable to a personal income tax levied upon the principle we here advocate. The personal obligation of the citizen to contribute to the support of the government under which he lives should not be affected by the form his investments take, and to exempt any form of investment can only bring about an unequal, and therefore an unjust distribution of this tax. Our reasoning applies, of course, to the exemption which agencies of the federal government now enjoy. But that is a matter which is beyond the control of the states, and for the pur-

poses of this report it will be considered a fixed datum which must be accepted.<sup>3</sup>

Our third specific recommendation is that the personal income tax should be levied upon net income defined substantially as a good accountant would determine it. We submit no formal definition at this time, and content ourselves with referring to the provisions of the Wisconsin and the Massachusetts income taxes. Our recommendation means that operating expenses and interest on indebtedness must be deducted, but we wish to call attention to the fact that the issue by the federal government of large amounts of bonds which are exempt from local taxation will make it necessary for the states to limit the interest deduction to an amount proportional to the income which the taxpayer derives from taxable sources. This would mean that if a person derives half of his income from taxable sources and one-half from tax-exempt federal bonds, he should be permitted to deduct but one-half of the interest that he pays upon his indebtedness. Any other procedure will tend to make the personal income tax a farce in many cases and will give occasion for legitimate complaint.

The fourth recommendation relates to the exemption of small incomes. The committee believes that the amount of income exempted from the personal income tax should not exceed \$600 for a single person and \$1200 for a husband and wife, with a further exemption of \$200 for each dependent up to a number not to exceed three. This would give us a maximum exemption of \$1,800 for a family consisting of husband, wife, and three children or other dependents. We recognize, however, that conditions may well differ in various states, and have decided to make no specific recommendations about the amount of the exemptions granted to persons having small incomes. We limit ourselves to the above statement

<sup>3</sup> We here follow the view that has long prevailed concerning existing restrictions on the taxing power of the states. In two recent cases (*Peck v. Lowe* and *U. S. Glue Co. v. Oak Creek*, 247 U. S.) the court has developed a doctrine which may justify the belief that a net income tax, levied upon state officials along with all other persons, with respect to their entire net incomes, might not be held to be a tax upon agencies of the federal government, and therefore forbidden by federal decisions.

of the maximum exemptions that should be granted and the further observation that, under a democratic form of government, it is desirable to exempt as few people as possible from the necessity of making a direct personal contribution toward support of the state.<sup>4</sup>

Our fifth recommendation is that the rate of the income tax shall be the same for all kinds of income, that is, that it shall not be differentiated according to the sources from which income is derived. If the tax stood by itself, a strong argument could be made for imposing a higher rate upon funded than upon unfunded incomes. But the tax is, in fact, designed to be part of a system of taxation in which there will be a tax upon tangible property. Under this system there will be heavier taxation of the sources from which funded incomes are derived; and there will, therefore, be little if any ground for attempting to differentiate the rates of the personal income tax. Such differentiation, furthermore, would greatly complicate the administration of the tax, and would lead to numerous difficulties. Upon all accounts, therefore, we recommend that there shall be no differentiation of the rate.

In the sixth place, we recommend that the rates of taxation shall be progressive, the progression depending upon the amount of the taxpayer's net income. Concerning the precise schedule of rates, we offer certain general recommendations. The lowest rate should not be less than one per cent, and under present conditions we regard it as inexpedient for any state to impose a rate higher than six per cent. The classes of taxable income to which the various rates apply need not be smaller than \$1000, and probably should not be larger. It results from what has been said, that if the exemption to a single person be placed at \$600, we would recommend a tax of one per cent upon any amount of income between \$600 and \$1600; a tax of two per cent upon any amount of income between \$1600 and \$2600; a tax of three per cent upon any amount of income between \$2600 and \$3600; a tax of four per cent upon any amount of income between \$3600 and \$4600;

<sup>4</sup> For administrative convenience we recommend that, in order to minimize the number of very small tax bills, no person liable to pay an income tax shall be assessed for less than \$1.00.

a tax of five per cent upon any amount of income between \$4600 and \$5600; and a tax of six per cent upon all income in excess of \$5600. We present these figures merely for the purpose of illustrating our preferences, and make no definite recommendation except that the rates of the personal income tax should be moderate, and should be, as nearly as practicable, uniform throughout the United States.

Our seventh suggestion concerns the administration of the proposed tax. No argument can be needed by the National Tax Association to support our recommendation that the administration of the personal income tax should be placed in the hands of state officials. This we regard as an indispensable condition for the successful operation of any state income tax, and we should be disinclined to recommend the adoption of an income tax by any commonwealth that is unwilling to turn over its administration to a well organized and properly equipped state department. No local administration of an income tax has ever worked well, and in our opinion never can operate satisfactorily. It is obvious, finally, that a state tax commission, or commissioner, is the proper agent to administer the proposed tax; and we desire to record our belief that satisfactory results are hardly to be expected if the administration is turned over to any other state officials. Upon this whole question of administration, which is of the most vital importance, we are fortunate in being able to rely upon the authority of the opinions repeatedly expressed by the conferences of the National Tax Association. We are glad also to point to the experience of Wisconsin and Massachusetts.

Our eighth recommendation is that the personal income tax be collected from taxpayers, upon the basis of strictly enforced and controlled returns, and without any attempt to collect it at the source. Upon this point there might have been doubt several years ago. But the experience of Wisconsin and Massachusetts shows conclusively that, with good administration, a reasonable tax upon incomes can be collected in the manner we have recommended, with the general coöperation of the taxpayers and with the minimum amount of evasion. Collection at source presents serious administrative difficulties, imposes unwarranted burdens upon third parties in respect of

transactions which strictly concern only the taxpayers and the government, and not infrequently tends to shift the burden of the tax to the wrong shoulders. What we seek is a personal tax which shall not be shifted and shall bring home to the taxpayer, in the most direct possible form, his personal obligation for the support of the government under which he lives. Collection at the source is plainly inconsistent with the purpose of such a tax. We recommend, however, that in certain cases information at the source be required as is now done under the Massachusetts and Wisconsin income taxes. Such information is helpful to the administrative officials, and does not alter the incidence or otherwise affect injuriously the operation of a personal income tax.

SECTION 13. The only remaining point is that of the proper disposition of the proceeds of this tax. So far as our general plan of taxation is concerned, it is immaterial whether the revenue from the personal income tax is retained in the state treasury, distributed to the local political units, or divided between the state and local governments. It is probable, furthermore, that the same solution may not be advisable in every state. If the state should keep the entire revenue, then every section of the state would benefit to the extent that such revenue might reduce the direct state tax. Upon the other hand, if the revenue from the income tax is distributed wholly to the local units, as is now the case in Massachusetts, the lightening of local burdens tends to reduce the pressure of the direct state tax. It seems probable that in most cases a division of the revenue would be considered preferable; and in such cases we suggest that the state governments might well retain a proportion corresponding to the proportion which state expenditures bear to the total of the state and local expenditures, and that the same principle should apply in determining the share received by each of the subordinate political units. Thus in case state expenditures amount to one-fifth of the total, county expenditures to two-fifths, and municipal expenditures to two-fifths, the state should receive one-fifth of the revenue from the income tax, the counties two-fifths, and the municipalities two-fifths. Whether distribution to the local units should be made upon the basis of the amount of tax

collected in each unit, or whether the tax should be distributed upon some other basis, is also immaterial to our general plan of taxation. In states where domiciliary changes occurring under the general property tax have not produced an unnatural concentration of wealth in certain localities, it will probably be best to distribute the revenue according to the domicile of the taxpayers. But where, as in Massachusetts, under the operation of the general property tax, wealth has been greatly concentrated in a few localities, such a method of distribution is obviously impossible and some other method must be found. In such a case, the income tax revenue might be utilized for a state school fund, or might be distributed among the localities according to the proportions in which they are required to contribute to the direct state tax. Since this entire question of distribution must be so largely affected by local conditions, the committee prefers to do no more than to offer these general suggestions.

#### IV. THE PROPOSED PROPERTY TAX

SECTION 14. The second part of the tax system proposed by the committee is a tax upon tangible property, levied exclusively at the place where such property is located. By this means the several states will be able to satisfy adequately and fairly their just claims in respect of property enjoying protection and other benefits under their laws.

Concerning this tax, it will be observed, we recommend that it be confined to tangible property, and that intangible property of all descriptions be exempt from taxation as property. All attempts to reach such property under the general property tax have in the past proved failures, and in our opinion, with the rates of taxation now prevailing in the several states, will always fail to accomplish the desired end. Moreover, they necessarily involve a large amount of unjust multiple taxation which we can see no way of avoiding under the property tax.<sup>5</sup>

<sup>5</sup> As an illustration of this we may refer to the vast amount of litigation, uncertainty, and injustice resulting from the attempt to fix the *situs* of intangible property and from the recognition of a so-called "business situs" for intangible property which inevitably brings about unjust double taxation. This subject will be further alluded to in our discussion of the business tax which we think should remove the cause of this difficulty.

We believe that the personal income tax which we have already recommended will reach income from intangible property fully and fairly at the only place where it can be taxed without running the risk of unjust double taxation, that is, at the domicile of the recipient. With this provision made for deriving a fair revenue from intangible property, it is obviously undesirable that the states should continue to tax it as property, and we therefore recommend that, under the proposed system, property taxation be confined exclusively to tangible property.

SECTION 15. Whether tangible property should be taxed at a uniform rate or should be classified for taxation, is a question that requires careful consideration and one concerning which there may be difference of opinion. It is the judgment of the committee, however, that a distinction should be drawn at least between real estate and tangible personal property, and that the latter should receive a separate classification. The reasons for this conclusion are, in the first place, the difficulty of enforcing strictly a tax upon many kinds of tangible personal property at the high rates of taxation which under present conditions our states commonly impose and must continue to levy upon real estate. Tangible personalty can be moved from one jurisdiction to another, and it frequently is removed if taxation is considered excessive. Moreover, it does not occasion so much government expenditure as real estate, and does not benefit from many kinds of local expenditure to the same degree as the latter. Our opinion is confirmed by the fact that in a state like Wisconsin an efficient state tax commission, clothed with all necessary authority, has become so impressed with the difficulty of taxing tangible personalty at the same rate as real estate that it has recommended the total exemption of this class of property. Where the general rate of taxation is low, the difficulties attending the taxation of tangible personal property may be less serious; but, at the commonly prevailing rates of \$1.50 or \$2.00 per \$100, we believe that strict enforcement of a tax upon tangible personalty will continue to be found most difficult and even impossible.

In our opinion, the rate of taxation upon tangible personal property should not exceed \$1.00 per \$100. At that rate it is

probable that, with suitable provision for enforcement, the tax will yield not less than is now collected at the higher rates usually applied to property in general, and may even yield something more. Experience may show that even a lower rate, perhaps \$0.80 per \$100, may be preferable; only experience can determine this point. For the present, we content ourselves with recommending a separate classification for tangible personalty with a maximum rate of \$1.00 per \$100.<sup>6</sup>

It is sometimes suggested that the remedy for excessive rates of taxation upon tangible personalty is not a separate classification for such property but effective provision for a full valuation of all property. With such full valuation, it is thought, the rate of taxation upon all property, real and personal, will be reduced to some such figure as is here recommended for tangible personalty. In a few states, like West Virginia and Kansas, this result was actually secured some years ago by thoroughgoing revaluations; but, with the present high level of public expenditure, it cannot be attained in the average American state, and today is hardly to be expected anywhere. We therefore see no practicable course except to recommend a separate classification for tangible personalty, and this we do in order to make our tax laws enforceable and to create conditions under which all taxable property shall be valued strictly in accordance with law.

SECTION 16. At this point it should be remarked that the imposition of a *classified* tax on tangible personal property is not a vital feature of the general plan which we recommend. Under our proposed system any state desiring to do so could continue to tax tangible personalty at the same rate as real estate without violating any rule of interstate comity or defeating the general purpose of our plan. We are here dealing with a subject of taxation which lies wholly within the jurisdiction of the state levying the tax, and no unjust or inconsistent results will develop if certain states continue to tax tangible personalty in the same manner as real estate. It should also be pointed out that our general plan would not be

<sup>6</sup> In the opinion of the committee, it is desirable to exempt from taxation a certain minimum amount of tangible personal property, perhaps some such figures as \$200 for an individual and \$400 for a family.

affected at any vital point if some states, like Wisconsin and New York, should prefer to exempt tangible personalty from all taxation. Here, again, it would be wholly a question of what a state might prefer to do with subjects of taxation lying within its exclusive jurisdiction. It is true that uniformity in methods of dealing with tangible personal property is desirable, and diversity will produce certain inconveniences and difficulties; but these, although undesirable, will not be so vital as to jeopardize the success of our plan, and will not involve any questions of interstate comity.

SECTION 17. The next recommendation we make is that uniformity in the methods of taxing tangible personal property is extremely desirable, and that every possible effort should be made to this end. A uniform tax date throughout each state, and even throughout the United States, is obviously to be desired. Uniform methods of valuation can in many cases be worked out. Our committee has not the information needed to enable us to make definite recommendations along these lines, but believes that practical results can be readily secured by committees of tax officials appointed by the National Tax Association.

SECTION 18. Our next observation concerning the taxation of tangible property is that effective administration is indispensable. Under purely local administration there never has been, and probably never will be, a satisfactory assessment except here and there in a few progressive localities. The primary work of assessment will, of course, continue to be done by local authorities; but it is essential that such work should be supervised, and where necessary controlled, by a competent state tax commission or tax commissioner. To this subject we shall hereafter recur.

SECTION 19. In the taxation of property under the plan proposed, certain special problems will be encountered. Public service corporations, for example, are now frequently taxed by methods different from those applied to other classes of property, and must doubtless continue to be so taxed. Our plan, strictly applied, would require that only the tangible property of such corporations should be subject to taxation, and that the taxation of gross receipts and the *ad valorem*

taxation of corporations as going concerns should be abandoned. But such radical changes are not necessary, provided that existing methods are adapted to the general plan of taxation here outlined and certain adjustments are made in connection with the business tax which we herewith recommend. Uniformity of method, as we all know, is not necessary in order to secure substantial equality in taxation, and all that can be required of any proposed system is that it shall produce substantial equality in its net results.

We, therefore, do not recommend that either the taxation of gross receipts or the *ad valorem* taxation of public service corporations as going concerns shall be discontinued wherever these methods are in successful operation. But we are obliged to point out that in many, and perhaps most, cases the amount of such taxation should be reduced or else that relief should be given to public service corporations in connection with the business tax. When public service corporations are assessed as going concerns, it is evident that they are more heavily taxed than other business enterprises which are subject to taxation merely upon their property, considered as property, and without reference to their value as going concerns. When a corporate-excess tax is applied to all corporations, equality may then be secured between public service corporations and other incorporated companies; but it is evident that unincorporated concerns escape with a lighter tax than successful corporations are required to pay.

It seems clear to the committee that when public service corporations are assessed under an *ad valorem* system as going concerns, while other kinds of business are not, they are today discriminated against, and will be under our proposed system unless relief is given at some other point. The system we propose enables us to recommend such relief. We propose that, in addition to the personal income tax and to the tax upon tangible property, there shall be a business tax as hereafter outlined. Wherever public service or other corporations may continue to be taxed as going concerns by a method which involves the taxation of what is commonly called the corporate excess, or the good will, of such companies, we recommend either that they be wholly relieved of the business tax, or that

the rate of such tax be reduced to a figure that will fairly offset the extra burden of taxation imposed upon them by the property tax.

In the taxation of gross receipts a similar adjustment is necessary wherever such taxation is in lieu of, and is substantially equivalent to, the taxation that would otherwise be imposed under an *ad valorem* tax upon corporations as going concerns. Concerning the comparative merits of the tax on gross receipts and *ad valorem* taxation, it is unnecessary for us to express any opinion. We should probably be disinclined to recommend a change in the taxes on gross receipts now levied by such states as Minnesota, California, or Connecticut; and we should be equally disinclined to recommend a change in the *ad valorem* system now in successful operation in a state like Wisconsin. Diversity of method is not inconsistent with real equality in taxation, and at this point we content ourselves with a mere expression of our approval of the conclusions reached some years ago by the committee appointed by the National Tax Association to consider the Taxation of Public Service Corporations.<sup>7</sup>

The recommendations which we make concerning public service corporations are equally applicable to other classes of incorporated companies. Our proposed system uniformly applied would require that stockholders and bondholders pay a personal income tax upon their interest and dividends, that the corporation be taxed upon its tangible property, and that finally the corporation pay a business tax in any locality where its operations are carried on. But it will not be inconsistent with the general plan if particular states prefer to continue other methods of taxing the property of corporations, provided that they make the adjustment we have recommended in connection with the business tax. It would merely serve to divert attention from the general plan we recommend if we undertook at this time a detailed examination of the merits and demerits of the various methods now employed in the taxation of business corporations.

SECTION 20. In the taxation of national banks a special

<sup>7</sup> Proceedings of the National Tax Association, VII, 372-383.

complication arises on account of the limitations imposed by the federal statute which now controls the taxation of shares of the capital stock of these institutions. The result, as we all know, is that at present the states are confined to the taxation of all banks, state and national, by a single method, and that, without further enabling legislation, it is impossible to apply the personal income tax to the dividends received by owners of national bank stock. It is also a fact that, when bank shares are taxed upon their full value at the prevailing local rates of taxation, they are taxed more heavily than most other classes of property under the property tax. The solution of the difficulty is not easy to find, and the committee has not attempted to provide one. For the purpose of this report, we prefer to call attention to the situation, and to recommend that the National Tax Association appoint a special committee to work out a plan of taxing banking institutions in a manner consistent with the general scheme of taxation here outlined.

SECTION 21. Mines and other mineral properties also present peculiar difficulties arising from the nature of the mining business. In the time at its disposal, the committee has been unable to consider, except in a general way, the subject of the taxation of mines, and only a few of its members are qualified to deal with the subject. We are agreed that mines should pay, under whatever method may be adopted, a tax commensurate with that paid by other real estate in the same taxing district. But further than this we are unable to go at this time. In view of the peculiar nature of the industry, we are of the opinion that the subject of mining taxation should be considered by a special committee appointed by the National Tax Association, and we so recommend.<sup>8</sup>

SECTION 22. Forests as well as mines present peculiar problems which seem to us to need consideration by a committee possessing special qualifications for the task. We are of the opinion that no special favors should be extended to owners of forest lands; but we are impressed by the fact that many

<sup>8</sup> Acting on this recommendation of the committee, the executive committee of the National Tax Association has authorized the appointment of a special committee to investigate the subject of the taxation of mines and other mineral properties.

students of the subject are of the opinion that an annual property tax discriminates against forest properties, and discourages the adoption of rational forestry practice. We are unwilling to express any opinion upon this subject; and we therefore recommend that the National Tax Association appoint a special committee to investigate the subject of the taxation of forests.

These are the principal problems to which the committee desires to call attention. Doubtless there are others, connected with the taxation of ships, of machinery, and perhaps of merchandise, which may well require further study by special committees; but concerning them we make no recommendations at this time.

## V. THE PROPOSED BUSINESS TAX

SECTION 23. If it had been possible to reconcile in a satisfactory manner the legitimate claims of the several states of the American Union without recommending, in addition to the income and property taxes, a separate tax upon business, the committee would have preferred to do so. But we find that many states are now levying what are in name or in fact business taxes, upon the theory that they have a right to levy taxes upon business done within their jurisdiction. This claim appears to us to be reasonable, and we find no other method of satisfying it that is consistent with interstate comity, except that of levying a properly constituted business tax as a part of the proposed system. Perhaps the decisive consideration in the minds of the committee is that the income taxes which are now being introduced in a number of the states generally combine the idea of personal with that of business taxation in a manner which, if it continues and is extended, will necessarily result in a large amount of unjust double taxation. These income taxes are imposed upon residents, on the theory that a citizen owes a personal obligation to the government under which he lives; and they are also imposed upon incomes earned within the states by non-resident individuals and corporations, upon the theory that since the business is carried on there the income from the business is properly subject to taxation. The result is in many instances a new form of un-

just double taxation of interstate industries and investments, which is likely to increase unless a suitable remedy is found.<sup>9</sup>

The committee is also influenced by the fact that the many taxes now imposed upon business, in the form of licenses or otherwise, by various states are an important factor in the whole problem of state and local taxation, which has usually been neglected, or even ignored, in discussions of the subject. These taxes are frequently illogical in their structure, and unequal and vexatious in their practical operation. No plan of state and local taxation can possibly ignore their existence, since there is no likelihood that the states will surrender the right to tax business carried on within their jurisdictions. Viewing the matter from this angle, therefore, we are convinced that a properly constituted business tax must be included in our proposed system of taxation. To those who may be inclined to question the wisdom of adding a business tax to the proposed combination of income and property taxes, we suggest that the committee is not recommending anything novel to American experience, but is merely proposing to reorganize upon a rational and equal basis a form of taxation that is now prevalent in many of our states and is not likely to be abandoned except for some better form of business taxation.

It may be well to add also that for such a combination of income, property, and business taxes there are precedents in the legislation of other countries. The original French system of direct taxation established by the Constituent Assembly provided for a personal tax, which was regarded as a substi-

<sup>9</sup> The difficulty is only partly remedied by provisions for taxing in any state where business is carried on only a proportionate part of such business. If a resident of one state receives dividends from shares of a corporation which owns a plant in a second state and carries on business in a third where it is subject to taxation upon an amount of income corresponding to the business transacted in that state, the stockholder's dividends will be taxable in the first state under the theory of personal taxation, the property and part of the corporation's income will be taxed in the second state under the general property tax, and a part of the income will be taxable in the third state; whereas, if the stockholder had lived in the state where the plant was located and the corporation had done all its business in that state, only one tax would have been levied in respect of the corporation's income.

tute for an income tax, a tax upon land and buildings, and a tax upon business. Other taxes were subsequently added to the original system, but the three taxes just mentioned have continued down to the present day. In the principal German states an income tax has been combined with taxes levied upon land, buildings, and business, in a manner similar in principle, though not in its application, to the system of direct taxation established in France in 1791. There is, therefore, no lack of precedents for the recommendation which the committee has made.

SECTION 24. In the taxation of business various methods may be employed. The tax may be levied in the form of a license or as an ordinary tax. Its amount, if not a fixed sum, may be determined with reference to the net income of a business enterprise, the gross receipts, the rental value of the premises occupied, the size of the town or city in which the establishment is located, the number of employees or the number of machines in use, or, finally, the amount of raw materials used by a manufacturing enterprise or the amount of goods purchased by a mercantile concern. In some cases, as that of the French business tax, a number of these elements are taken into account in determining the amount of a taxpayer's contribution. Generally considered, the various methods resolve themselves into three: first, the imposition of a tax of fixed amount; second, the levy of a tax upon net income; and third, the adoption of various external indicia, such as gross receipts, rentals, and the like, which are considered to be approximately fair indications of the profits of a business.

It is evident that a tax of fixed amount, such as is often imposed by license taxes, even though the amount may vary for different trades and occupations, cannot, on account of its inequality, be recommended as an adequate method of taxing business. In connection with licenses imposed upon certain occupations chiefly for the purpose of police regulation, a charge of fixed amount may be entirely wise and unobjectionable. But the case is very different with a tax levied with a view of obtaining revenue.

External indicia of business profits may be adopted as the basis of a system of business taxation with very tolerable re-

sults. They produce a certain amount of inequality, since none of the indicia can lead to anything but a very rough approximation of business profits. A combination of several indicia, such as gross receipts, rental values of premises occupied, and the number of employees, might, together with a proper classification of occupations and a carefully adjusted schedule of rates, result in a form of business taxation that would operate as well as, let us say, the French business tax. But administrative difficulties multiply as the basis of taxation is made more complicated, so that ultimately a point is reached where such a system becomes less convenient and in some ways more troublesome than a system which at the start adopts net income as its basis.

SECTION 25. The committee has come to the conclusion, therefore, that the proposed business tax should, except in certain cases, be levied upon the net income derived from business carried on within the state levying the tax. Prior to the coming of the federal income tax, it would probably have been unwise and impracticable to adopt net income as the basis of business taxation. But today every business concern of any considerable size is obliged to make a return of its net income to the federal government; and it is, therefore, both practicable and convenient to impose a business tax upon net income. This will involve, of course, in the case of interstate concerns, the determination of the proportion of the income derived from business carried on in each state. But there are practicable methods of making such a determination, so that no serious difficulty need arise at this point. With proper administration, we believe that a tax thus levied upon net income will be so far superior to any tax levied according to external indicia of business profits that there can be no doubt concerning the advisability of adopting it.

There may, however, be certain cases in which an exception should be made to the general rule. Concerns so small as to be exempt from the federal income tax might be taxed upon their gross receipts, their gross purchases, or the rental value of the premises occupied, with the provision that the tax in no case should be less than a certain minimum amount, perhaps \$2.00. In any case where the apportionment of net income from an

interstate business is peculiarly difficult, it may be that an adequate tax upon gross receipts within the state should be substituted for a tax upon the net income. The desire to secure equality should not lead us to adopt a Procrustean method, which permits of no adjustment to meet special cases. But we believe that only genuinely exceptional cases require any departure from the general rule, and suggest that the burden of proof rests very decidedly upon anyone who asks for exceptional treatment.

SECTION 26. Obviously the rate of the business tax should be proportional and not progressive. Neither the absolute amount of the net income nor the relation it bears to the invested capital have any bearing upon the question of how much a business concern should pay for the benefits it derives from the government under which it carries on its business. A concern which invests a large capital, and therefore earns a large income, cannot be assumed to benefit more than in direct proportion to the size of its investment or the amount of its income; while the relation of the income to the invested capital is an indication of the success with which the business has been managed rather than the amount of public service which it has received. Moreover, in practice, graduation of rates will produce difficulties which are bound to react unfavorably upon the general administration of the law, since it will produce in many cases absurd results which cannot be remedied except by the arbitrary discretionary action of the tax officials.

The actual rate of the tax should be moderate. Where the business requires the employment of a substantial amount of tangible property, the business tax will be in addition to a tax paid upon that property; and in cases where the business employs little or no property in a particular locality, it is evident that the concern is making but comparatively small demands upon the services of the government. One per cent of the net income derived from business done in the locality would be a very light tax; and we believe that, in general, a tax of two per cent of such income would be adequate. Exceptional conditions in particular states may justify higher rates, but we believe that the rates in no case should exceed five per cent,

and that very exceptional conditions would be required to justify such a high rate for a business tax levied as a part of such a system as we propose.

SECTION 27. It seems clear to us that the administration of a business tax must be placed in the hands of the state tax commission or tax commissioner. All the considerations which make it desirable that the personal income tax should be administered by state rather than by local officials apply with equal force to a business tax levied upon net income; while there is the further fact that, if the state administers the personal income tax, it can administer the business income tax more conveniently, economically, and efficiently than any county or municipal authorities. The same is true of any tax that may be levied in exceptional cases upon gross receipts in lieu of net income. Upon the other hand, taxes levied in exceptional cases upon the basis of rental values, or levied in fixed amount upon particular occupations requiring special police regulation, may be left to local administration.

SECTION 28. The proceeds of the proposed business tax may well be divided between the state and local authorities in due proportions. Our recommendation is that the states retain a proportion corresponding to that which state revenues or expenditures bear to the total state and local expenditures or revenues, and that the remainder should be turned over to the taxing district in which business is carried on. The details of the plan of distribution may well vary from state to state, but this general rule seems to us a satisfactory general guide.<sup>10</sup>

SECTION 29. It goes without saying that the business tax we recommend is proposed as a substitute for all existing business taxes. The diversity, multiplicity, and inequality of the existing taxes levied upon business by both state and local authorities in many commonwealths have long constituted serious evils, and the time has certainly come when better methods should be adopted. Unless the business tax is imposed by a single assessment, the revenue being distributed as we propose, it is obvious that the desired end will not be accomplished. There is great need of a simple system, admitting

<sup>10</sup> See, however, page 44.

as few exceptions as possible, and uniform so far as practicable in all of the states which desire to levy business taxes. There is need also of better administration, which can be secured only through state authorities, as we have recommended. We are proposing, *in fine*, the adoption of a comparatively simple and uniform system of business taxation in place of the multifarious, vexatious, and frequently unequal methods now employed in many of our states.

In concluding this subject, we may point out that under our proposed system there is no necessity that any state which prefers to dispense entirely with business taxation, except minor license taxes such as are everywhere imposed for police purposes, should adopt a business tax if it prefers not to do so. It may well be that some states will consider that a personal income tax and a tax levied upon tangible property meet fully the needs of their situation, and may, therefore, be reluctant to adopt the third proposed tax. To such we say that there is no necessity of doing so if a state is willing to renounce completely the claim to impose a tax upon business, as business, simply because it is carried on within its jurisdiction. A state will do nothing opposed to interstate comity, will impose no unjust double taxation, and will not interfere with any other state which desires to impose taxes upon business, if it decides not to assert the principle upon which the taxation of business is founded. This will mean necessarily that non-resident individuals and corporations employing little or no tangible property within its jurisdiction but carrying on business and earning substantial profits there, will not be required to contribute to the support of its government. We have nowhere asserted that it is every state's duty to make such persons or business concerns contribute, but have merely recognized that it is reasonable for any state to do so if it desires. Our argument has merely been that, if interstate comity is to be respected and unjust multiple taxation avoided, any state that taxes business must levy a tax upon *all* business done within its limits, whether conducted by individuals, partnerships, or corporations, and must not levy its personal income tax or its taxes upon property or corporate franchises in such a manner as to impose unequal, and therefore unjust,

multiple taxation upon interstate business and investments. We have, in a word, undertaken to provide a reasonable, fair, and practicable method of business taxation which any state can employ consistently with the rules of interstate comity; but we have not argued that every state ought to adopt this form of taxation, irrespective of its particular situation and fiscal needs.

## VI. SUMMARY OF THE PROPOSED SYSTEM OF TAXATION

SECTION 30. At this point it is desirable to consider as a whole the proposed system of taxation. In the first place, it is evident that this system will satisfy every legitimate claim of any American state. It provides that all persons shall be taxed fairly and fully at their place of domicile for the personal benefits they derive from the government. It provides that all tangible property which any state may desire to tax shall be taxed fully at its situs for the governmental services it there receives. It eliminates the taxation of intangible property, as property, because such taxation cannot be carried out without a large amount of unjust double taxation. And, finally, it provides a method by which any state which desires to tax business may do so in a fair and effective manner. No single tax levied either on income or property could possibly satisfy all of these claims, unless all the states, by formal agreement, should adopt a plan by which one tax could be levied upon interstate business and investments, the proceeds of which would be distributed in some agreed proportions between the states of domicile, the states where property is located, and the states in which business is carried on. Such an agreement we believe it is impossible to secure; and we have, therefore, recommended three separate taxes, each of which can be levied in such a manner as to enforce fully, fairly, and consistently the taxation of the subjects it is intended to reach.

SECTION 30. In the second place, it is evident that the combination of taxes we have recommended will give better results than any one tax, however levied, which is made to yield the same amount of revenue. With the best drawn law and the very best of administration, there will always be a

certain amount of inequality in the operation of any tax. If, therefore, all the revenue needed is derived from but one tax, such inequality as inevitably arises will be concentrated at a few points where it cannot be mitigated. But under a system by which the same amount of revenue is collected from separate taxes levied upon income, property, and business, it is clear that such inevitable inequalities as arise in the working of any one tax may be, and to a considerable extent must be, offset or mitigated by inequalities arising under the others. By the mere law of probability, it must happen that the inequalities arising under the three separate taxes will not all be concentrated at the same point, and that some of them will to a certain extent compensate for others. This is one of the reasons why a double system of income and property taxation has worked well in certain European countries and has met with increasing favor from students of taxation and practical administrators. We regard this compensatory action of the three taxes we have recommended as an important argument in favor of our proposals.

SECTION 31. A third point to be emphasized is that the system here recommended will bring about heavier taxation of funded incomes than unfunded, without requiring the states to undertake the very difficult task of differentiating the rates of their income taxes. That funded incomes should be more heavily taxed than unfunded, nearly all will agree. At the same time, it is certain that the attempt to levy an income tax at different rates on different kinds of income greatly complicates the administration of the tax, and raises difficult problems which any one familiar with the practical side of tax administration would desire to avoid. But it is evident that, by combining a tax upon property with a tax upon income, we shall in effect impose heavier taxation upon funded incomes; and therefore the net result of our tax system will be to secure differentiation without undertaking the very difficult task of differentiating the rates of the income tax.

SECTION 32. Finally, the committee desires to point out that, although the proposed system prescribes certain lines of action which must be followed if interstate comity is to be observed, it admits of considerable elasticity at other points.

The personal income tax does, indeed, require definite rules which cannot be violated without undesirable results. It must be levied upon persons at their place of domicile, and must not be levied upon the income from property at its situs or the income from business at the place where business operations are carried on. The property tax, however, permits of such adjustments in the taxation of corporations, mines, forests, and certain other things as may be necessary to fit existing taxes into the proposed system or to improve existing methods which may be deemed to be unsatisfactory. The business tax also permits such adjustments as may suit the conditions of different states. The committee is obliged to insist that, if such a tax is levied, it should be levied equally upon all business carried on within the state, under whatever form of organization it is conducted, since this is the only manner by which unfair burdens on interstate business can be avoided. But we see no reason why every state ought, from the nature of the case, to impose business taxes; and while we recommend a tax upon net income as the best form of business tax, we have pointed out that in special cases taxation upon the basis of external indicia may be preferable and entirely consistent with our general plan of taxation.

SECTION 33. A word should be said concerning the relation of our plan to the classified property tax which for some years has played no unimportant part in discussions of state and local taxation. It is evident that the flat tax upon intangibles, which is a part of every classified property tax, is unnecessary under the scheme we propose. The purpose of the tax on intangible property is chiefly to enforce the principle that every citizen, no matter where his investments are located, should pay a direct tax to the government under which he is domiciled. It is evident that this purpose is fully carried out by the personal income tax which we have recommended, and, therefore, we have not recommended any tax on intangible property as a part of our proposed plan. With intangibles eliminated from the operation of the property tax, we have left only the question of how tangible property shall be treated; and we have recommended that tangible personal property be separated from real estate and made subject to a

lower rate of taxation. It will be seen, therefore, that, so far as tangible property is concerned, our plan is based upon the idea underlying the classified property tax, and that our plan differs from the latter chiefly by reason of the fact that it eliminates wholly the taxation of intangible property.

The relation of existing state income taxes to the proposed plan should also be considered briefly. The Wisconsin income tax is in part a personal income tax like that which we propose, and in part a tax upon business incomes. A part of it, therefore, would find its place naturally in our proposed personal income tax, and the other part could readily find a place in our proposed business tax. The Massachusetts income tax is throughout its entire structure a personal tax, since it is in no case levied upon non-resident persons or interests. It is, therefore, a proper nucleus for a personal income tax, but fulfils in no respect the functions of our proposed business tax. The corporation income taxes of Connecticut, New York, West Virginia, and Montana may be classified as business taxes, and within certain modifications can readily meet the requirements of our system. Some of the other state income taxes, which have been modeled after the federal income tax, are more difficult to classify and violate some of the principles we have advocated; but they at least serve to establish the principle of state taxation of income, and can be remodeled in a manner conforming to the requirements of the plan we propose.

## VII. TAX ADMINISTRATION

SECTION 34. Since the best tax laws will not work satisfactorily if they are badly administered, the committee desires to submit some observations and recommendations concerning administration. It is well known that many of our states, by creating tax commissions or appointing tax commissioners, have greatly improved the administration of their laws in recent years; but it is also known to all that, taking the country as a whole, there is still need of great improvement in tax administration. We have already made several recommendations concerning the administration of the particular taxes which we have proposed, but we are unwilling to submit our

new system without considering more broadly and generally the subject of administration.

SECTION 35. In the United States the assessment of property has always been entrusted to local officials, and doubtless will continue to be performed by local agencies. The local assessor, therefore, is a vitally important part of our system of administration; and if his work is not well performed, no mere process of correction will ever bring about a good assessment of property. We are in complete agreement with the conclusions reached by the committee appointed by the National Tax Association a few years ago to consider the subject of the administration of tax laws.<sup>11</sup> Besides endorsing the findings of that committee, we desire in this report to make the following specific recommendations:

A. Assessment districts should be large enough to justify the employment of at least one permanent official in each such district, who should receive a salary sufficient to make it possible for him to give all his time to the work. Such permanent assessors should be provided with well equipped offices, a suitable number of permanent clerks, and such part-time assistants as may be needed for a short period in each year. Even if assessments are not made annually, there is always enough work of investigation and of keeping track of new developments to justify the employment of a permanent force. At present many assessment districts are too small to make proper compensation possible; and the result is that the work is done by persons who cannot give to it the time it ought to receive and seldom acquire the necessary expert and technical knowledge. Manifestly, the county is a better assessment district than the township; and, generally speaking, we may suggest that it is undesirable to erect assessment districts smaller than a county, unless such districts have a sufficient population to enable them to employ at least one permanent assessor and a suitable staff.

B. Whether assessors should be appointed or elected is a question about which there may be room for difference of

<sup>11</sup> For the report of this committee, see Proceedings of the National Tax Association, IX, 197-207.

opinion. The committee, however, favors strongly the method of appointment, since it does not believe that, other things being equal, elective officials can or will perform their work as efficiently as appointive. Recognizing, however, that there may be serious difference of opinion at this point, we make no specific recommendation; and content ourselves with recommending that, whether assessors are elected or appointed, they should serve for a term of at least four years in order that there may be reasonable continuity in their work and that there may be time for their policies to justify themselves by their results.

C. We recommend that all assessors, whether elected or appointed, be subject to removal for wilful negligence or malfeasance in office. This power of removal should be placed in the hands of the state tax commission, which should be authorized, either upon complaint or upon its own motion, and after hearing all parties in interest, to remove a local assessor from office. This power is now given to the tax commission in certain states, and has led to excellent results. Even though seldom exercised, the very existence of such a power tends to prevent many abuses and to secure a more efficient administration of tax laws.

SECTION 36. That a permanent state tax commission, or tax commissioner, should be established in every state, is a recommendation which today requires no argument to support it. We will merely say that neither the system of taxation which we recommend nor any other can be expected to give satisfactory results in states that refuse to place in the hands of some permanent central authority the administration of taxes upon incomes and inheritances, the original assessment of certain classes of property, and general supervisory powers over the assessment of all property subject to local taxation.

How this central authority should be constituted is naturally the next subject for consideration. We believe that experience has abundantly proved that a state board constituted of *ex-officio* members is totally inadequate for the work in hand. The members of such a board have other duties and responsibilities which have first claim upon their interest and

time, so that they never become experts in taxation and seldom give adequate attention to their work as members of a tax commission. In states which are content to vest in *ex-officio* boards central control over the administration of their tax laws, we cannot expect satisfactory results from our proposed system of taxation, or, indeed, from any other.

Whether a tax commission is to be preferred to a single commissioner, is a point upon which there is certainly room for difference of opinion. In many, if not most, of the states that have tax commissions it would have been impossible to secure enactment of laws vesting in the hands of a single commissioner the authority given to the commissions. Upon the other hand, some states have developed strong and efficient tax departments under the authority of a single commissioner, and evince no desire to change this arrangement. It is also true that the internal taxes of the United States are collected by a department which has at its head a single commissioner. The committee believes, therefore, that there is no reason to suppose that a commission is always to be preferred to a single commissioner, or that a tax department with a single head is always to be preferred to a tax commission; and concludes that the important thing is the adequacy of the resources and extent of the authority conferred upon the state tax department.

Where the commission exists, the members should be appointed, in classes, for terms of at least six years. Provision should be made that all the members of the commission should not belong to the same political party, and every effort should be made to remove their appointment from politics. The salaries paid should be adequate to secure men of first-class ability, and removal from office should be authorized only for cause and after due hearing of all parties in interest.

The powers of the tax commission should include: (a) original assessment of all property or business that has a statewide rather than a local character, all financial institutions, and public utility companies of every description;<sup>12</sup> (b) the assessment of the personal income tax and the tax on business

<sup>12</sup> Certain other classes of property, such as mines, may well be included in this list, but we will not undertake further specification.

incomes which we have here recommended, also the administration of inheritance taxes and any other state transfer taxes; (c) the equalization of property assessments for the purposes of state taxation and the equalization of county assessments whenever there are different assessment districts within a county; <sup>13</sup> (d) directive and supervisory power over the assessment of property, including the power to order reassessment and, if necessary, to appoint appraisers to reassess any property that local officials have not assessed in accordance with the law; (e) power of removal, after a hearing, of local assessors for inefficiency or misconduct; (f) authority to act as board of appeal in such cases as may be necessary; and (g) authority to investigate the entire subject of taxation, and to gather and publish comprehensive statistics concerning all matters of taxation and public finance.

SECTION 37. The committee has recommended that the proposed personal income and business income taxes should be administered by state rather than local authorities, and in the previous section we have pointed out that the state tax commission or tax commissioner should be entrusted with this work. For this purpose it is very desirable, and even necessary if the best results are to be secured, that a state should be divided into income-tax assessment districts of convenient size, each of which should be placed in charge of a district assessor of incomes, appointed by the state tax commission, or tax commissioner, and directly responsible to the same authority. The success of the Wisconsin and the Massachusetts income tax laws is due in large part to the fact that the administration was placed wholly in the hands of the state tax departments. But it was due also, in no small degree, to the work of the district assessors who served the useful purpose of

<sup>13</sup> This recommendation means, of course, that there should be no separate state board of equalization. We are aware that in certain states where there are no tax commissions there are state boards of equalization which now possess some of the functions of a tax commission, and may at any time be clothed with other such functions. Such boards should be, as fast as possible, developed into competent tax commissions of the type that we recommend. Whether they would better retain their present names or be known as tax commissions, is probably not a matter of great importance; but we venture to express our preference for the latter name.

bringing the administration of the law home to the people of the several districts and helpfully decentralizing the work of administration. In the more populous states we believe that such a district organization is necessary for the successful operation of income taxes; and we, therefore, strongly recommend it. In the less populous states, it may be necessary for the state tax department to deal directly with all persons subject to the income tax. In all states, the establishment of an income tax bureau within the state tax department is absolutely essential.

It is obvious that district assessors of income may be advantageously utilized in the general supervisory work of the state tax commission or commissioner. Wisconsin now employs district assessors of income as supervisors of local assessors within their districts, and thus has established a useful connecting link between the state tax department and the local assessing boards. On other grounds, such an intermediary between the state and the local taxing authorities is very desirable; and we, therefore, point out that the establishment of district assessors of incomes will facilitate greatly the carrying out of the supervisory powers with which every state tax department ought to be clothed.

### VIII. THE INHERITANCE TAX

SECTION 38. In this report the committee has preferred to make no specific recommendation concerning the taxation of inheritances. Such taxes are now in operation in almost every state, and it is certain that they are a permanent part of our system of taxation. The committee strongly favors the use of the inheritance tax by the American states, and is in general accord with the various recommendations which have been made from time to time by committees appointed by the National Tax Association. We have felt obliged, however, to devote our attention principally to other subjects concerning which there is greater diversity of opinion and greater need for thoroughgoing reforms. It is clear that none of our recommendations, if carried out, will interfere in any way with the levy of inheritance taxes by the states; and we have, therefore, concluded that further study of this subject could prop-

erly be left to some other committee, or undertaken by our committee in some subsequent year. Our decision is due solely to limitations of time, and does not imply lack of appreciation of the importance of the inheritance tax in any rational system of state taxation.

## IX. TAXES UPON CONSUMPTION

SECTION 39. In the course of its deliberations, the committee has had occasion to consider whether, in view of the great increase of state and local expenditures in recent times and the entrance of the federal government into the field of direct taxation which had hitherto been utilized exclusively by the states, it might be possible for the states to derive more revenue than in the past from taxes levied upon consumption. The taxes now levied by the states upon automobiles represent the sort of taxes which the committee has in mind. Taxes upon amusements, on non-alcoholic as well as alcoholic beverages, on hunting licenses, and a few other things, have been brought to our attention; but we have decided to make no recommendation upon the subject at this time. It is perfectly evident that, with the exception of automobiles, none of the taxes which have been suggested will ever be likely to constitute an important source of revenue; and we have preferred to concentrate attention this year upon the problems of chief practical importance. It may well be, however, that at some future time the National Tax Association will do well to appoint a committee to canvass carefully the possibility of supplementing existing sources of state and local revenue by taxes levied upon what may be fairly classified as luxurious consumption.

## X. THE SEPARATION OF THE SOURCES OF STATE AND LOCAL REVENUE

SECTION 40. The proposal to separate the sources of state and local taxation has played a sufficiently important part in previous discussions of tax reform to justify a brief consideration of that subject. We may first observe that the plan we propose does not require any separation whatever of the sources of state and local revenue, but that it is not inconsis-

tent with the adoption of a thoroughgoing scheme of separation. Under our plan, it would be possible for many states to raise from the personal income tax a sufficient sum to defray the entire expense of the state government, so that the taxation of property could be turned over wholly to the local authorities; while the revenue from the business tax, although collected by the state, could either be retained by the state or distributed to the local governing units. We refer to this fact merely to emphasize our remark that the plan we have proposed will neither prevent the states from adopting the plan of separation, if they so desire, nor compel them to do so, if they prefer not to experiment with that plan.

The committee is of the opinion that a partial separation of the sources of state and local revenue is desirable, but that complete separation, by cutting the connecting cord between the state and local governments, tends to destroy the states' sense of responsibility in the matter of local taxation. There is no experience to justify the belief that, if the states turn over to the local governments independent sources of revenue, and adopt the theory that local taxation is an affair of purely local interest, we shall ever have a satisfactory administration of the tax laws by local officials. Experience abundantly shows that such officials need constantly the expert advice, intelligent guidance, and, when necessary, the effective control of a state tax commission composed of experts and keenly alive to the need of just and efficient administration of tax laws by local officials. Total separation of the sources of state and local revenue, at least in the forms in which it is usually presented, seems to the committee to be distinctly a backward step, especially at this moment when the need is for greater emphasis upon state control over the taxation of property for local purposes. A further difficulty of complete separation is that the abolition of the direct state tax upon property tends to remove a desirable check upon state expenditures.

The committee believes, however, that a partial separation of the sources of state and local revenue is desirable. The inheritance tax is obviously a proper source of state revenue. Taxes upon insurance companies and upon automobiles may very properly be allocated to the state rather than the local

governments. Under special conditions it may be better that railroad taxes should be retained in the treasury of the state than utilized as a source of local revenue. From the taxes thus enumerated, it is obvious that states can, and should, derive revenues that are independent of local taxation; but we believe that it is desirable that a state tax on property should be retained as the regulator of the state finances and a reminder to the state of its responsibility for the proper assessment of property in every locality within its jurisdiction.

We have recommended that a part of the personal income tax, corresponding to the proportion which state expenditures bear to the total of state and local expenditures, be allocated to the state treasury. Such an arrangement will tend to lighten the direct state tax, but will not make such a tax unnecessary. We have pointed out that the distribution of the proceeds of the proposed business tax may well vary from state to state. We here suggest that whether the state should be assigned a share may well depend upon the comparative revenue needs of the state and the local governments. If the state tax is light, the entire revenue from the business tax may well be assigned to the local political units; and if the state tax is heavy, it would follow that the state might well retain a share of the business tax. Here, as elsewhere, the system we propose permits of different adjustments to suit the varying conditions of our several states.

## XI. AMENDMENT OF STATE CONSTITUTIONS

SECTION 41. As has been repeatedly set forth in the publications of the National Tax Association, it is certain that no important departures from the system of the general property tax are possible in many states under constitutional restrictions which provide that taxation must be uniform, equal, and proportional. That such constitutional limitations have, in fact, tended to secure neither uniformity nor equality in taxation, is also fully set forth in the Proceedings of the annual conferences of the National Tax Association and in various reports of special committees. Upon this subject the committee needs only to say that in states which are now limited by constitutional restrictions prescribing a uniform rule or method

of taxation, no satisfactory adjustment of tax problems can be reached until such limitations are removed, or at least modified. There may be room for difference of opinion concerning the form which constitutional amendments should take. Some states have preferred to adopt amendments authorizing specific departures from the uniform rule, while others have eliminated wholly the requirement of uniformity. The committee has concluded that it is unnecessary at this time to say more than that the plan of taxation which it recommends will require no more, and probably no less, amendment of state constitutions than any other plan adequate to the needs of the case.

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